

SHORT HISTORY OF LOCAL GOVERNMENT IN QUEENSLAND

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Almost a century has passed and no one has attempted to record the history of the establishment, development and progress of local government in Queensland. The late C. A. Bernays, a Clerk of the Queensland Parliament, in his "Queensland Politics During Sixty (1859-1919) Years" and "Queensland—Our Seventh Political Decade, 1920-1930," has given a clear and concise account of the local government legislation passed by the Queensland Parliament during those sixty-one years. Bernays gives the credit for the production of his book to the then President of the Historical Society of Queensland, Mr. F. W. S. Cumbrae Stewart, B.A., who induced him to read a hundred-page pamphlet before the Society on 14th January 1918. The late C. A. Bernays was singularly placed to write the History of the Queensland Parliament by reason of one fact alone that he was the son of L. A. Bernays, the first Clerk of the Legislative Assembly, who served the Parliament for forty-nine years and died in 1908. C. A. Bernays not only was nurtured in the Parliamentary atmosphere through his father, but actually lived most of his early and later life in the precincts of the Parliamentary Buildings in the Lodge specially built as a residence for his father. So Bernays, the first historian of the legislative background in the Sovereign State of Queensland, through his life in close contact with the persons responsible for the foundations of local government in Queensland was probably more fitted than anyone else to record the early history of local government.

The writer was nurtured in the subject of local government in his teens as a schoolboy by his uncle and guardian who in this period became an Alderman and Mayor of his adopted City of Ipswich. Through his antagonism to nepotism, a position in the administrative staff of the Ipswich City Council was given to the winner of a special examination ordered by the

Council for the fifty odd candidates, the examiner placing the writer second on the list of examinees. However, after a few years in the State Public Service the writer was drafted by fate to the central government administration of local government. The eventful years that followed in the subject of local government were an inspiration to any young student of the theory and practice of the exercise and performance of the functions delegated to and devolved upon the local governments.

Foundation of the State

The most important event in that part of Australia now known as Queensland was the grant of self-government of sovereign status on the 10th December 1859. In the interests of the whole of Australia, especially at the present time and as a result of personal experience for a lifetime in the legislative and administrative sphere of the Central Government of Queensland, the failure to grant self sovereign government to North and Central Queensland in the early days after separation from New South Wales at the behest of the protagonists for self-determination and even to grant a new interior State in Western Queensland was a regrettable blunder. Such magnanimous grants of self-government may have acted as an inspiration to South Australia to create the Northern Territory into a separate sovereign State instead of denying this strategic part of Australia any form of State or Local Government by handing it over to the Federal Government. Regrettably there is still no democratic government in the Northern Territory either of a National or Local character. The greatest possible credit must be given to the early advocates for separation of Queensland from New South Wales, to their unbounded confidence in its future as a separate State and to their sagacity in developing their minds to undertake what must have appeared to many of those pioneers almost a superhuman task. They were not to know the illustrious, intellectual and industrious statesmen who were to guide the destinies of the new State in its early foundation years. The foundations laid in those first forty odd years and the

achievements of this period in the standards of legislative and administrative spheres of government are not surpassed in any part of the British Commonwealth. The root cause of these standards was probably the result of the fantastic developments in these fields in Great Britain between the early improvements in the Parliamentary system and the recognition of social obligations by the community. The small population and the natural hazards of an undeveloped country would have daunted many enthusiasts. Notwithstanding all these disabilities the projects brought to a successful issue by the early Governments and people were so spectacular that they were the envy of the other States of Australia and many oversea countries.

Foundations of Local Government

With such an auspicious start in the realm of statecraft the desire for local self-government was a natural result. Consequently the next most important event in the short history of the State of Queensland was the early grant of local self-government on a wholesale scale equally favoured by the legislators and the pioneers of those days in the country districts of the State and the outback. If Queensland were still part of New South Wales it is doubtful if the total population would have reached two hundred thousand at the present time instead of nearly one and a half million judging by the country population of northern and north-western parts of New South Wales. It is not generally known that at least one-third of the total area of New South Wales is still without any measure of local self-government. In fact, local government in shires or rural areas of limited application was only granted in that State in 1906. This form of local responsibility for local affairs was eagerly adopted by Parliament over twenty-five years earlier in Queensland and just as eagerly accepted. Thereby a sense of responsibility and confidence was engendered in the legislators and the people generally through being entrusted in their respective spheres with specific powers, duties and responsibilities. It was necessary for each of these two forms of governments to peer

into the future and visualise the needs of the future inhabitants. In consequence upon the arrival of the first great influx of migrants in the eighties a great deal had been accomplished to prepare the way for their arrival and permanent residence in the several districts of this large State. In those early years of the State's development it was much more possible to doubt the wisdom of progressive moves for the future and there were those in the legislatures and the local governments who were very reluctant to adopt measures then considered necessary for immediate implementation. In consequence of their attitude many progressive schemes, which the present generation ever should have been effected many years ago, were delayed or not carried out.

First Twenty-five Years of Local Government

The application of the system of delegated local self-government in the young State of Queensland had its difficulties to overcome. There were no legislators of practical experience in this field either in Parliament or in actual membership of local authorities with any extensive training or experience in this form of devolved authority in a corporate capacity. The legislators were guided largely by the recorded discussions and enactments in Great Britain and their inherent attributes in the solution of the problems of the most effective methods to suit the peculiar conditions of the new State, its large area of undeveloped lands and its relatively small population, particularly in the outback. Some legislators had some valuable personal experience of the subject in Great Britain itself and a select few had academic knowledge gained in that country. The central government administration was at a much greater disadvantage in that there were no trained administrators in this important subject and its proper and effective relationship to the local authorities in their initial establishment and its complexities. The local authorities themselves were distinctly worse off in the initial stages than the legislature and the central administration. Their members had little experience of the working and responsibilities of office as members of a corporate body, no trained staff to guide

them through the perplexities of ministering to the wants of the inhabitants and at the same time conforming with the requirements and procedures of the law. Both members and staffs had to learn in the hard school of experience trying to avoid the wrath of their constituents and the rebukes of the Courts for neglect and over-zealousness respectively.

The dilemmas of the early stages must have been very exasperating to all four parties to the contract of the establishment of local government. But their state of mind was probably as nothing compared with the disappointments of the would-be benefactors of the new form of community service.

The broad principles of all the existing local government works and services were all established in Queensland and in the first twenty-five years of the State and stand to the lasting credit of the originators and the early administrators.

The States, the Commonwealth and Devolution of Authority

In the very early days of the new State of Queensland an agitation was set in motion for further devolution of authority for the northern and central divisions of the State. It has never been clear what was the root cause of this desire for local powers and responsibilities. The following matters in combination may have caused this intense desire for self-government: (a) The grant of self-government to Victoria and Tasmania in respect of small areas compared with North and Central Queensland; (b) antagonism to the geographical position of the capital, Brisbane, in relation to North and Central Queensland; (c) annoyance against "Queen Street" government when a great deal of their business and private affairs were conducted with Sydney for preference; (d) the development of a superiority complex compared with the people in the southern part of the State; (e) the grant of a generous measure of local self-government increased the desire for more devolution of authority to the extent of States with sovereign status; and (f) their supreme confidence in the future prospects for the overall

development of the northern and central portions of the State.

In order to satisfy these demands and stave off the major devolution of the power of a sovereign State status several attempts were made to induce the Parliament to pass legislation creating what might be termed a form of greater local government. These Bills are worth studying for the extraordinary degree of devolution proposed in each, the thought given to the conception of these schemes, the unbounded confidence in the future of the whole State shown by their sponsors and for the status of the persons responsible for each measure. It is quite safe to say that in both the Federal and State spheres of legislators their equal could not be found to-day with similar tendencies for devolution of authority and for the development of local self-reliance and responsibility.

On the eve of the creation of the Commonwealth of Australia apparently north and central Queensland turned their attention to the possibilities of securing devolution from the Commonwealth as they both voted at the referendum in favour of its creation whilst southern electors voted against Federation. They were to be bitterly disappointed for not only has the Commonwealth turned a deaf ear to their demands for Sovereign status, but have almost completely neglected these portions of the State in similar manner to its own Northern Territory which has no form of true democratic self-government of any kind, national or local. Further the Commonwealth has never utilised the local governments in any of its administration, preferring to leave everything everywhere in the hands of its bureaucratic Commonwealth Public Service. Instead of hiding behind the imagined terms of the Constitution over the last fifty-five years the Commonwealth should have adopted every possible measure to ensure the continuance of a true form of democratic government by entrusting some of its responsibilities to the local governments and finding the means to that end. The Commonwealth has not only not trusted the local governments, but has built up such an enormous machine of administration that it, by its spokesmen before local government representatives, admits to

control by public servants of the policy of all Commonwealth Governments. The local governments of Australia are deserving of a better fate at the hands of the nation, and in the interests of the general good of its people.

Creation of Local Government

The original creation of local government in Queensland was commenced, before separation, by the constitution of the Municipality of Brisbane under the Municipal Institutions' Act of the then Colony of New South Wales. This Act was of course used by Queensland until its Parliament passed its own Act. No such action as the constitution of a local government could be taken by the Government in those days until a petition had been received from the ratepayers by the Governor-in-Council praying for the constitution of a Municipality. The enactment of the Divisional Boards' Act in 1879 providing for the wholesale or compulsory creation of Divisions, now Shires, naturally had no provision for petition in the original constitution of a Division, but provision for a petition was retained in the law before part of the district of a Municipality could be severed and included in a contiguous Division.

The responsibility in the early days for the definition of the boundaries of the original municipality was therefore entrusted by Parliament to the petitioners, and of the original Division to the Governor-in-Council. Both very difficult and unenviable responsibilities, especially in a new State with small population and a large and an unpredictable future. The petitioners and the central government were both at considerable disadvantage in this most important task of determining the original boundaries of Municipalities and Divisions respectively. Consequently the Royal Commission appointed in 1896 was requested in its terms of reference to consider the terms of the law providing for the constitution of local governments and recommend any changes considered necessary to prevent any further increase in the number as it was believed that too many had been created already and many of them were incapable of functioning as an effective unit of local government.

The Commission's recommendation was that full responsibility for new Areas, abolition of Areas and alterations of boundaries of Areas whether Cities, Towns or Shires should vest absolutely with the central government after considering any representations made by any interested persons. In the 1902 consolidating Act the provisions submitted by the Royal Commission in a draft Bill were approved and enacted by Parliament.

Despite the new outlook the growth of the number of local governments continued unabated from 1902 to 1915. In the latter year both major political parties had placed in their policies a local government proposal for the creation of greater local authorities which, of course, meant greater cities and greater shires and the consequent abolition of most towns and their inclusion in the contiguous shires and the abolition of shires of small rateable value and their inclusion in the contiguous shires. The Greater Brisbane proposal was specifically mentioned by both leaders in their policies on local government. The new leader elected at the 1915 election immediately put the proposals through the necessary channels and all the Greater Cities were created by 1924. In 1927 a Royal Commission was appointed to recommend the action which should be taken to complete the greater local government programme, but the numerous objections to the recommendations of the Commission and probably the approach of the financial crisis of the immediate subsequent years resulted in no action being taken at that time. In recent years a few of the proposals with variations have been approved.

Prior to the 1896 Royal Commission on Local Government one of the chief difficulties of the central government was to reconcile the antagonism of the country of broad acres to the adjacent towns or urban areas and to convince both rural and urban that they were interdependent. Until quite recent years there were examples of both pastoral districts and farming districts having township or urban lands within their local governments without a single modern amenity now considered essential to urban development.

The creation of a separate local government in the early days developed a high sense of vested interest in

the operation of the corporate body known as a local authority. The abolition of so many Areas between 1916 and 1924 was proof of this fact for the people in many localities were sorely grieved to lose their local government from their district with its local status and opportunity for community service. In those days it was a sad duty to see so many able and trained men lost to local government for ever and before their time. It was always a humble opinion that many more members should have composed the Councils of the Greater Cities as has been the case in Great Britain for many years. Community efforts of a local government character are needed in so many ways at the present time, many of them of a voluntary nature, and so few representatives of the people to take a leading role in bringing them to successful issues.

Structure, Functions and Finance

The question of structure has been already dealt with in a general historical outline of the means adopted to divide the State into units of true local government and the variations of policy adopted by the legislature up to the present. The existing development of the system has now been firmly established, especially the Greater Cities with boundaries extended sufficiently to enable town planning practices to be adopted for controlling the future growth according to plan and the supply of all the known local government amenities by their administrative and technical organisations.

The grant of the functions of local government has been considerably extended in their overall scope, particularly in the field of the powers to legislate by ordinance or by-law on subjects which do not infringe on existing State law. Several of the original major functions such as the construction and maintenance of certain types of roads and the generation and distribution of electricity have been devolved upon a central government authority and a quasi government board respectively by special legislation. Over the last sixty years the legislation gradually whittled down the local government control of traffic and a few years ago

placed this function under complete central government control. The abnormal growth of the motor road vehicles over the last fifty years and of electrical gadgets of many descriptions influenced the central government to provide some of the roads and some of the electricity out of new special charges for the use of the roads and for the use of the electricity. The same growth of motor vehicles caused the centralising of the control of traffic. The local government administrative and technical staffs have provided the central government with considerable assistance in both roads and electricity. Over recent years some people desire complete Australian uniformity in road construction standard technical methods and location and also in road traffic signs, apparently in both cases to be devised by some Federal authority set up for the purpose.

Public opinion has required much more from the local governments in the provision of modern amenities by loan moneys since this method of community deferred payments of interest and redemption was first instituted. What other functions public opinion will desire the local governments to undertake in the future are not easy to enumerate. This system of devolved authority to the bodies known in most countries of the world appears to be increasing in importance and the world collaboration of accredited representatives at meetings of the International Union of Local Authorities confirms this opinion. This Union is now compiling a study on local government systems in all countries of the world at the request of UNESCO, which intends to publish the studies resulting from the world-wide enquiry.

The basic subject of finance in relation to the local governments in Queensland has not changed materially during the first century of its history. Land valuation is still the main method of finance, except where specific charges are made for certain services. The original valuation system was based on the value of land and improvements. In 1890 the valuation system was changed to the unimproved value of the land devised, drafted into words, and enacted in Queensland for the first time. Both Federal and State central governments have in recent years entered this land

taxation field for revenue purposes. The Federal Act has been repealed recently. The public demands for more expenditure on local government services during the last fifty years have been increased at a phenomenal rate. There are world-wide movements for some change in the basic methods of raising the annual revenues, but a world solution has not yet been found. There is no expressed desire by informed public opinion in Australia to change from the present unimproved value of land system commenced in 1890. At first the actual making of the valuation was the function of the local governments, but recently the central government set up its own organisation for the use of both central and local governments. In New South Wales this method was established almost fifty years ago.

In the early years a system of endowment on rates actually raised, except loan rates, was contained in the law. The proportion paid by the central government was on a descending scale until it eventually stopped after the big drought in 1901. In later years a loan and subsidy scheme was approved by the central government. Its basis was a fluctuating scale of subsidy for particular works and services in order to encourage the local governments to provide schemes of known community value. This scheme was well received by the whole State and resulted in many millions of pounds being expended on the provision of amenities in most cases long overdue.

The methods of raising revenue for water and sewerage services are not consistent in all local governments. Some adopt the rateable value of unimproved land whilst others have favoured the floor area of the buildings on each parcel of land. One City favoured a method of rating for sewerage on the basis of the number of pedestals installed on each occupied rateable property. This method necessitated the passing of special legislation which included provision for including the cost of sewerage connection to premises and the provision also of all necessary sewerage apparatus.

Ever since the passing of the Valuation of Land Act in 1890 there has been little if any academic discussion on the merits or demerits of any particular system of raising revenue for the particular services

provided by local government. However, considerable protest has been recorded that centralisation of function in conjunction with economic conditions has made inordinate increases in the unimproved valuation of rateable land.

Finance has been regarded as the test of good government. No modern urban community is able to function without the local government works and services. Delay in the provision of these necessary adjuncts of modern society is probably the main retarding influence in the proper development of the commerce and industry. For the whole century of local government it has been a *sine qua non* that no additional rate is justified. Commerce and industry and the private individual are justified on the usual grounds of personal benevolence and future increment for any expenditure but the provision of adequate modern local government works and services for the amenities is an extravagance. Even in the State of Victoria the same neglect of country localities is also evident. A three-mile road along a wheat and sheep property owned by my father is in a worse state than at his death over sixty years ago, and the little adjacent township has no local government amenities worthy of mention. The production of this district over the last century has amounted to a very large sum. It is known that there is similar neglect in other States. Yet we find that the present demand is for huge expenditures on works and services of a local government character and function, but the demand is being made to the National Government at Canberra, apparently on the ground that the Federal Government has unlimited finance to carry out the schemes or that Government may be induced to divert some of its loan or other revenue moneys to the proposed local government works and services.

It was always considered that the grant of local self-government and a degree of local autonomy bred a spirit of self-reliance and due regard for responsibility of action and the fitness of things. Who is to determine to-day what works and services are to be constructed and provided first? Who is to be given the

authority to plan the future methods of finance for local government works and services and the order of priority?

CENTRAL CONTROL

Parliament

The local governments being the creatures of the Sovereign State Government are naturally subject to several types of central control which was manifest in the very first enactment providing for their creation. Firstly, the Parliament may from time to time change the details of the system first devised or, secondly, by enactment may provide completely new aspects of its delegation of power and authority or extend or limit the degree of autonomy. A few of the major changes or alterations may be cited. Up to 1921 only owners and occupiers of rateable land were qualified to vote at the annual election of members. The occupier was entitled to the vote if he had paid the rates due, otherwise the owner was eligible if he paid the rates. At the same time there was plural voting, the owner or occupier being entitled to one vote under £500 of rateable value, two votes for lands valued at £500 and less than £1,000, and three votes for lands valued at £1,000 and over. If the Area was divided into Wards or Divisions he or she was entitled to this plurality of voting in each Ward or Division. Also if persons were owners or occupiers of rateable land in more than one Area these persons were qualified voters. In the 1921 elections the adult franchise was applied for the first time. This qualification applied to members of Councils as well as voters, and also to the election of Mayor of a City or Town and Chairman of a Shire. This major change also established the triennial election of the whole Council instead of the previous method of annual election for one-third retiring each year. The systems of voting were altered from time to time corresponding generally with the methods prescribed for the elections of the central government. The novel system of complete postal voting for every elector in the outback Areas where it was declared to be in force has been in practice for over seventy years. In the early years it was possible for a ratepayer to be committed to

prison for non-payment of rates, but in 1902 this extra penalty was denied to the magistrates. The selling of land for arrears of rates at first only applied to unoccupied land, but in 1902 this method of recovering unpaid rates was extended to all kinds of rateable land whether in actual occupation or not. In later years the method and procedures for selling lands by the local governments were considerably simplified and less costly to operate.

The legislature granted a substantial measure of legislating by by-law in the early law and considerably widened the ambit of the subject matters.

The Courts

The higher and lower Courts from the inception of local government have had a definite function. However, the judicial control is mainly exercisable by individuals who are aggrieved by some decision of the local government. The central government could use the Courts in some cases concerning its control of the local government, but nearly always has preferred to use its own powers of control through the various agencies of the central government. The changes in the relation of the Courts to the local governments have been very small over the years either in the powers given to the Courts by the legislative body or in the attitude of the Courts by the creation of precedents or otherwise. It has been recognised in the early development of local government that Parliament in its wisdom gave the local authority the exercise of a discretion and as long as the decision or proposed decision is not ultra vires or if the decision has not been arrived at in an improper way the Courts are loth to interfere with the proper exercise of a discretion. Some overseas thinkers are requesting the setting-up of an administrative Court to deal with the exercise of discretions by both central and local governments.

Brisbane Control

At the present time there are four types of central control that have their origin in Parliament. They are known to students of the subject as (a) the Executive

Government, that is, the Governor-in-Council; (b) the Minister for the time being administering the law under consideration; (c) the Department of State administering the local government law and (d) the inspectors of various kinds.

A dispassionate observance of the central control in the early days of local government would say that there was very little difference to the general outline of to-day. In the actual powers conferred by Parliament there would be a noticeable increase, especially in the subjects of health, roads, electricity, animal pests and noxious weeds, and last but not least control of loans and loan works. The subject of audit control is typical of the more direct central control to-day than in the early days of local government when the auditors of each local government had to be annually elected by the qualified voters, in a similar manner to that of companies. The establishment of Departments of State with definite responsibilities to subjects like health, roads, etc., placed much greater control of the local governments on the inspectors and other officers entrusted with the special powers, duties and responsibilities of these subjects.

The exercise of the powers conferred on the Executive Government and the Minister charged with the administration of the local government law has never resulted in charges being made by the local governments that these powers were used wantonly, without regard to the fitness of things or without a proper appreciation of the relationship between the central and local governments. It could safely be claimed that no action has ever been taken at either of these two levels which could be proved to be made in a spirit of pure caprice. That surely is a very creditable standard for nearly one hundred years of local government. It is not to be expected that decisions made by these two high authorities are not without fault or mistaken judgment.

Through the operation of new central controls in recent years in similar subjects for other Australian States and oversea countries operating local government it is only natural that the degree of autonomy exercised by the local governments has decreased. The relative increases in road and air transport, in the use

of electricity and in the development of the modern social services have been more responsible for the decrease of autonomy than the desire of the central government to lessen the overall responsibilities of local government. The sudden impact of these new services caused lines of action in almost every country which time may prove to have been organised on bases not properly fitting in to the complete fabric of central government organisation.

In peace, in war and in other times of difficulty the local governments have been proved a most valuable branch of government and judging by the experiences of the last century of its operation in Queensland its services will be available always in the national interest.